

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION, HUAWEI TECHNOLOGIES USA, INC.,
HUAWEI TECHNOLOGIES CO., LTD., HUAWEI DEVICE CO. LTD.,
HUAWEI DEVICE (DONGGUAN) CO., LTD., and
HUAWEI DEVICE USA, INC.,
Petitioner,

v.

RED ANVIL, LLC,
Patent Owner.

Case IPR2016-00003
Patent No. 5,680,223

Before TRENTON A. WARD, LYNNE E. PETTIGREW, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

ORDER
Termination of the Proceeding
37 C.F.R. § 42.74

I. INTRODUCTION

On February 1, 2016, the parties filed a Joint Motion to Terminate the instant proceeding. Paper 16 (“Joint Mot.”). In addition, pursuant to 37 C.F.R. § 42.74(b), the parties filed a copy of their settlement agreement and a release agreement (collectively, “Agreements”), covering, *inter alia*, the patent involved in this proceeding, U.S. Patent No. 5,680,223 (“the ’223 patent”). Exs. 1017, 1018. The parties filed a joint request to have the Agreements be treated as business confidential information and kept separate from the files of the patent involved in this proceeding under 37 C.F.R. § 42.74(c). Paper 17. We authorized the filing of these papers. Paper 14.

II. ANALYSIS

The parties contend that, under 35 U.S.C. § 317(a), termination is proper because all parties involved in the proceeding request it and the merits are undecided. Joint Mot. 5; *see also* 35 U.S.C. § 317(a) (“An inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed.”). The parties further contend that the Agreements are a true and correct copy of all settlement agreements and understandings between the parties under 37 C.F.R. § 42.74(b), Joint Mot. 6, and that the Agreements fully resolve and settle the parties’ dispute over the ’223 patent, *id.* at 5. This case is in the preliminary proceeding¹ stage; no decision

¹ A preliminary proceeding begins with the filing of a petition for instituting a trial and ends with a written decision as to whether trial will be instituted. 37 C.F.R. § 42.2.

whether to institute a trial has been made. Upon review of the procedural posture of this proceeding and the facts before us, we are persuaded that good cause exists to terminate the instant proceeding.

All parties filed, along with their Joint Motion to Terminate, a joint motion requesting that the Agreements be kept separate and treated as business confidential under 37 C.F.R. § 42.74(c). Paper 17. The parties' request under 37 C.F.R. § 42.74(c) is granted. Pursuant to 37 C.F.R. § 42.74(c), the Agreements "shall only be available: (1) [t]o a Government agency on written request to the Board; or (2) [t]o any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in [37 C.F.R. § 42.15(d)] and on a showing of good cause."

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Joint Motion to Terminate is *granted*;

FURTHER ORDERED that the instant proceeding is hereby *terminated* as to all parties; and

FURTHER ORDERED that the Joint Motion to treat the Agreements as business confidential and keep them separate from the patent file pursuant to 37 C.F.R. § 42.74(c) is *granted*.

IPR2016-00003
Patent 5,680,223

PETITIONER:

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